U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-A-A-

DATE: FEB. 19, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a physician, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). Section 203(b)(2)(B)(ii) of the Act provides that such a waiver shall be afforded to a physician who meets several conditions, including that the individual will work in an area with a shortage of health care professionals.

The Acting Director of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner previously married his second wife, T-M-, in an attempt to evade immigration laws, therefore barring the petition's approval under section 204(c) of the Act, 8 U.S.C. § 1154(c).

On appeal, the Petitioner submits additional documentation and contends that his marriage to T-M- was not entered into for the purpose of evading the immigration laws and that he is eligible for a physician national interest waiver. In addition, he argues that the Director's failure to issue a notice of intent to deny (NOID) the instant Form I-140 prior to its denial was in violation of U.S. Citizenship and Immigration Services (USCIS) regulations and due process.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. –
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> > (A) In general. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational

> interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
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> (B) Waiver of job offer –
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> (i) National interest waiver. Subject to clause (ii), the Attorney General[1] may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.
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> (ii) Physicians working in shortage areas or veteran facilities.
>
> (I) In general. The Attorney General shall grant a national interest waiver pursuant to clause (i) on behalf of any alien physician with respect to whom a petition for preference classification has been filed under subparagraph (A) if –
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> (aa) the alien physician agrees to work full time as a physician in an area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals or at a health care facility under the jurisdiction of the Secretary of Veterans Affairs; and
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> (bb) a Federal agency or a department of public health in any State has previously determined that the alien physician's work in such an area or at such facility was in the public interest.

In addition, section 204(c) of the Act, 8 U.S.C. § 1154(c), states:

> Notwithstanding the provisions of subsection (b) no petition shall be approved if (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws, or (2) the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

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[1] Pursuant to section 1517 of the Homeland Security Act of 2002 ("HSA"), Pub. L. No. 107-296, 116 Stat. 2135, 2311 (codified at 6 U.S.C. § 557 (2012)), any reference to the Attorney General in a provision of the Act describing functions that were transferred from the Attorney General or other Department of Justice official to the Department of Homeland Security by the HSA "shall be deemed to refer to the Secretary" of Homeland Security. *See also* 6 U.S.C. § 542 note (2012); 8 U.S.C. § 1551 note (2012).

Furthermore, the regulation at 8 C.F.R. § 204.2(a)(1)(ii) provides:

> *Fraudulent marriage prohibition.* Section 204(c) of the Act prohibits the approval of a visa petition filed on behalf of an alien who has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws. The director will deny a petition for immigrant visa classification filed on behalf of any alien for whom there is substantial and probative evidence of such an attempt or conspiracy, regardless of whether that alien received a benefit through the attempt or conspiracy. Although it is not necessary that the alien have been convicted of, or even prosecuted for, the attempt or conspiracy, the evidence of the attempt or conspiracy must be contained in the alien's file.

USCIS cannot approve a petition if an individual previously married in an attempt to evade immigration laws. Section 204(c) of the Act, 8 U.S.C. § 1154(c). To invoke section 204(c) of the Act, the record must contain "substantial and probative" evidence of marriage fraud. 8 C.F.R. § 204.2(a)(1)(ii); *Matter of Tawfik*, 20 I&N Dec. 166, 167 (BIA 1990). An adjudicator generally "should not give conclusive effect to determinations made in prior proceedings, but, rather, should reach his [or her] own independent conclusion based on the evidence." *Id.* at 168.

If substantial and probative evidence of marriage fraud exists, a petitioner must show by a preponderance of evidence that he did not marry for the purpose of evading immigration laws. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983). The central question in determining the bona fides of a marriage is whether the parties intended to establish a life together at the time of their marriage. *Id.* at 3; *see also Lutwak v. United States*, 344 U.S. 604, 611 (1953)."

II. PROCEDURAL HISTORY

The record indicates that on [redacted] 1997, the Petitioner married a U.S. citizen, T-M-, who later filed an immigrant visa petition for him as her spouse.[2] *See* section 201(b)(2)(A)(i) of the Act, 8 U.S.C. § 1151(b)(2)(A)(i) (defining the term "immediate relatives" to include spouses of U.S. citizens). In May 1999, the parties appeared for an interview at the Chicago immigration office. Because of concerns noted by the interviewing officer, a field investigation was conducted to determine if their marriage was entered into to evade immigration laws. Based on the results of the investigation, a NOID was issued to T-M- in November 2000 informing her of derogatory information indicating that her marriage to the Petitioner was not bona fide. In September 2001, T-M- withdrew the petition she filed on his behalf, but maintained that their marriage was entered into in good faith. The Petitioner and T-M- divorced in [redacted] 2001.

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[2] The Form I-130, Petition for Alien Relative, and an accompanying Form I-485, Application to Register Permanent Residence or Adjust Status, were both filed on October 11, 1997. In support of the Form I-130, T-M- provided an [redacted] 1997 Judgement for Dissolution of Marriage from the Circuit Court of [redacted] Illinois for the Petitioner's first marriage to Y-D-.

The Petitioner subsequently married A-M- in 2002, and in April 2002 she filed a petition for him as her spouse. They divorced in 2005 and A-M-'s petition was denied in April 2009 pursuant to section 204(c) of the Act. Subsequently, the Petitioner married L-T- in 2009. In July 2009, she filed a petition for him as her spouse, but in April 2012 that petition was also denied under section 204(c) of the Act. L-T-'s appeal of that decision to the Board of Immigration Appeals was dismissed in November 2014.

In January 2016, the Petitioner filed the instant Form I-140 petition, accompanied by affidavits and evidence relating to the claimed bona fides of his marriage to T-M-. The Director denied this petition in March 2018 pursuant to section 204(c) of the Act. The Director's decision explained that this determination was based on the results of the investigations of the Petitioner and T-M-'s residences and evidence indicating that he was living with his first wife, Y-D-, at the time of the investigations.

III. ANALYSIS

As noted above, the Petitioner contends on appeal that the Director should have issued a NOID prior to denial of the instant Form I-140, and that failure to do so was in violation of USCIS regulations and due process. The regulation at 8 C.F.R. § 103.2(b)(8)(ii) provides that, if all required initial evidence has been submitted but the evidence provided does not establish eligibility, USCIS may: deny the benefit request for ineligibility; request more information or evidence, or notify the applicant or petitioner of its intent to deny the benefit request and the basis for the proposed denial, and require that the applicant or petitioner submit a response. First, we note that the regulation provides that USCIS may issue such a notice, but does not impose an absolute requirement that it must do so. Moreover, here, the Director did not deny the petition because initial evidence was missing; rather the submitted evidence failed to establish eligibility for the benefit. While the regulation at 8 C.F.R. § 103.2(b)(16)(i) requires USCIS to disclose derogatory information of which a petitioner is unaware, affording him an opportunity to rebut the information before the decision is rendered, the Petitioner's Form I-140 was accompanied by statements and evidence directly addressing the specific findings of the marriage fraud investigation, thus indicating that he was aware of that information.[3]

Further, had the Director committed a procedural error by failing to issue a NOID, it is not clear what remedy would be appropriate beyond the appeal process itself. The Petitioner has, in fact,

[3] We note that the record includes proceedings relating to three previous spousal petitions filed on the Petitioner's behalf. In addition to the documentation regarding his physician national interest waiver petition, the Petitioner submitted copies of NOIDs and denial decisions from these prior proceedings discussing the derogatory information relating to his second marriage to T-M- that formed the bases for the Director's determination that he entered into that marriage for the purpose of evading the immigration laws. For example, the Petitioner provided copies of USCIS's November 2011 NOID and April 2012 denial notice that both included a detailed discussion and analysis of the information and evidence in the record relating to his marriage to T-M-. Furthermore, the documents he presented at the time he filed the instant Form I-140 specifically address these derogatory findings.

supplemented the record on appeal and made further arguments in response to the Director's decision in this matter. Therefore, it would serve no meaningful purpose to remand the case to afford the Petitioner the opportunity to supplement the record with new evidence. Regardless, we will review the record in its entirety based on the Petitioner's appellate arguments regarding his eligibility. We exercise *de novo* review of all issues of fact, law, policy, and discretion. *See Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). This means that we look at the record anew and are not required to defer to findings made in prior decisions. Furthermore, our decision may address new issues that were not raised or resolved in the prior decision.

In the appeal brief, the Petitioner argues that USCIS does not have substantial and probative evidence demonstrating that his marriage to T-M- was entered into for the purpose of evading the immigration laws. For the reasons discussed below, we find that the record includes substantial and probative evidence demonstrating that his second marriage was entered into for the purpose of evading the immigration laws.

The Petitioner entered the United States as a B-1 nonimmigrant visitor on May 21, 1996, and was admitted until June 4, 1996, but overstayed his nonimmigrant visa. The record reflects that in a period of less than two months in 1997, the Petitioner divorced his Nigerian wife Y-D-, married T-M-, and filed for immigration benefits as the spouse of a U.S. citizen. In addition, one day before the Petitioner and T-M-'s scheduled May 6, 1999, interview at the Chicago immigration office, she obtained an Illinois photo identification card (ID) listing her address as [redacted][4] The record includes the Petitioner's December 22, 1998 Apartment Lease for [redacted] Illinois beginning on January 1, 1999 and ending on December 31, 1999. The Petitioner is the only named lessee and signatory on this apartment lease. Furthermore, T-M-'s Illinois ID issued on May 5, 1999, misspells [redacted] and does not include an apartment number.

The parties were interviewed by an immigration officer jointly on May 6, 1999, and they maintained that they were residing together at [redacted] Illinois. The interviewing officer determined that the evidence was not sufficient to demonstrate that the Petitioner entered into his second marriage in good faith. Based on concerns raised during the interview such as the issue date of T-M-'s ID, the presence of Y-D- (the Petitioner's former wife) in [redacted] (the same county where he married T-M-), and the manner in which the divorce decree with Y-D- considered matters of custody and child support for their alleged adopted children[5], the Assistant District

[4] While car insurance documentation in the record shows that T-M- drove an automobile in 1999, we note that at the May 6, 1999 immigration interview she presented an Illinois State ID card (issued one day earlier) instead of her Illinois driver's license.

[5] The [redacted] 1997 Judgement for Dissolution of Marriage from the Circuit Court of [redacted] Illinois for the Petitioner's first marriage to Y-D- stated that they were married in Nigeria in [redacted] 1995 and that "two (2) children were adopted to the parties: namely [T-A-], born [redacted] 1995 and [K-A-], born [redacted] 1995." In addition, on both the Form I-130 and Form I-485, the Petitioner claimed he had two children, daughters T-A- and K-A-, born on [redacted] 1995 in Nigeria.

Director for Examinations requested an investigation to determine the validity of the Petitioner's second marriage.

On October 4, 2000, an immigration investigation at [redacted] Illinois ([redacted] apartment complex) indicated that T-M- was the only person on the lease for that address. The record includes T-M-'s [redacted] lease for September 1997 until August 1998, but it does not identify the Petitioner as a lessee or tenant. The investigator showed the building manager a photograph of the Petitioner, but the building manager said that she had never seen the Petitioner. In addition, the building manager informed the investigator that T-M- was no longer residing at [redacted] and had moved to [redacted] Illinois.

Investigators subsequently encountered T-M- at her residence at [redacted] on October 4, 2000. The lead investigator noted that he asked her if the Petitioner was home and requested to enter her apartment to observe evidence of a bona fide marriage. T-M- stated that the Petitioner was at work and that they have two residences. She explained that the Petitioner resided at [redacted] Illinois because that address was closer to his job. In addition, T-M- indicated that she had no keys to the Petitioner's [redacted] address. The investigator further wrote that he "requested again to enter her apartment to look for evidence which may help determine the validity of her marriage." In response, T-M- claimed that she had pictures of the Petitioner, but did not have any of his clothes in her apartment. Despite two requests, she departed without allowing the investigators to enter her apartment.

In addition, investigators visited the Petitioner's address at [redacted] Illinois on October 4, 2000. A mailbox inside the apartment building listed the Petitioner's name along with that of Y-D- (his first wife) and her mother, F-D-. The investigators knocked on the door to Apartment [redacted] "a first floor garden apartment," but there was no answer. The lead investigator observed that there was no furniture inside, that the apartment was vacant, and that its flooring was torn up as if a construction project were underway. On October 5, 2000, the lead investigator contacted the apartment manager at [redacted]. The apartment manager stated that the Petitioner moved to apartment [redacted] in January 1999 and that the Petitioner was the only person on the initial lease. The apartment manager further indicated that because there was a leak in apartment [redacted], the Petitioner moved to apartment [redacted] on July 31, 2000. The record includes the Petitioner's July 27, 2000 Apartment Lease for [redacted] Illinois beginning on August 1, 2000 and ending on July 31, 2001 that the apartment manager provided to the investigators in November 2000, but this document was not signed by T-M-.[6]

The record also includes evidence showing that the Petitioner and his first wife, Y-D-, had a child together, A-A-, who was born on [redacted] 2000 (during his marriage to T-M-) and who shared the

[6] In support of the current physician national interest waiver petition, the Petitioner provides a copy of this lease that appears to have been signed by T-M- after the site investigation.

Petitioner's last name. On A-A-'s birth certificate[7], Y-D- listed her "residence" as [redacted].

Furthermore, although the Petitioner married T-M- in [redacted] 1997, the record includes evidence showing that he initially filed his 1997 U.S. federal income tax return as "Single," his 1998 U.S. federal income tax return as "Head of Household," his 1998 Illinois income tax return as "Single or head of household," and his 1999 U.S. federal income tax return as "Head of Household." The record further reflects that he filled out "Amended U.S. Individual Income Tax Returns"[8] for 1997, 1998, and 1999 to change his filing status to married, but the appellate submission does not show that these amended returns were actually filed with the Internal Revenue Service or the state of Illinois. Regardless, the initial filing status of the Petitioner's tax returns as single and then head of household (rather than married or married filing separately) is further evidence supporting the conclusion that he did not enter into a bona fide marriage.

In light of the above, we find that record of proceedings contains substantial and probative evidence demonstrating that the Petitioner's marriage to T-M- was an attempt to circumvent the immigration laws. A finding that section 204(c) of the Act does apply to an individual must be based on evidence that is substantial and probative. *Matter of Tawfik*, 20 I&N Dec. at 166; *Matter of Agdianoay*, 16 I&N Dec. 545 (BIA 1978); *Matter of La Grotta*, 14 I&N Dec. 110 (BIA 1972). Once USCIS has met this initial requirement, the burden shifts back to the petitioner, as part of his burden of proof in visa petition or revocation proceedings, to rebut the Government's evidence and establish that the prior marriage was bona fide and that section 204(c) of the Act should not apply. *Matter of Kahy*, 19 I&N Dec. 803 (BIA 1988).

On appeal, the Petitioner contends that affidavits containing "unrefuted sworn testimony of contemporaneous witnesses affirm that at its inception" his marriage to T-M- was bona fide. The record includes affidavits from the Petitioner, his first wife (Y-D-), his second wife (T-M-), her mother and daughter, the Petitioner's nephew, a former coworker, a neighbor, and previous counsel (B-I-) for the Petitioner and T-M-'s October 1997 Form I-130 and Form I-485.

In his affidavit, the Petitioner explains that while he has had "five failed marriages," he has not engaged in marriage fraud and "deeply loved each woman" he married. He describes instances of sexual abuse that he suffered as a child in Nigeria and their adverse effect on his being able to maintain trusting relationships as an adult. He further discusses his relationship with T-M- and provides information about their financial and personal problems. With regard to the claim on both the Form I-130 and Form I-485[9] that the Petitioner had two children in Nigeria, daughters T-A- and K-A-, he now indicates that they were a female friend's children and that he and Y-D- "never formally adopted them through a court" and that they "are living with their mother in Nigeria." In

[7] The Petitioner and Y-D- are listed as the child's parents on this birth certificate.
[8] The Petitioner submitted copies of these tax returns in support of the current petition.
[9] We note that in September 1997 T-M- signed the Form I-130 and Petitioner signed the accompanying Form I-485 certifying under penalty of perjury that the information they provided was "true and correct."

addition to misrepresenting information about his purported children on his Form I-485, we note that at his May 6, 1999 immigration interview, the Petitioner indicated to the interviewing officer that T-M- was residing with him at [redacted] Illinois, but the record indicates she was actually living at [redacted], Illinois. A petitioner must resolve discrepancies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.* Here, we find that the numerous discrepancies in the Petitioner's past statements cast doubt on the credibility and reliability of his assertions.

The affidavit from the Petitioner's first wife, Y-D-, contends that after the parties' divorce in [redacted] 1997, she married a U.S. citizen, and that soon after their marriage her new spouse became abusive. Y-D- asserts that she contacted the Petitioner in December 1999 for a place to stay and that she moved into his residence at [redacted] Illinois. She attests that "[a]round the beginning of 2000," she and the Petitioner "crossed a line and were intimate." After becoming pregnant with the Petitioner's child, Y-D- states that her mother, F-D-, "came from Nigeria to help" and resided with them. In addition, Y-D- claims that she moved out in March 2000 to another address, [redacted] Illinois, but that mail addressed to her and F-D- was "still delivered to [the Petitioner's] apartment." She further indicates: "I had my name and my mom's name on his mail box even after I moved out in March/April. I and my mother were getting our mail at [the Petitioner's] place because we did not have a permanent address until much later in 2000."[10] The record, however, includes no evidence to corroborate Y-D-'s claim that she moved out in March 2000, and we note that this claim contradicts her residence information listed on A-A-'s [redacted] 2000 birth certificate.

Regarding the credibility of Y-D, we further note that the [redacted] 1997 Judgement for Dissolution of Marriage from the Circuit Court of [redacted] terminating her marriage to the Petitioner states that she "offered testimony" to the court "that two (2) children were adopted to the parties, namely: [T-A- and K-A-]." However, in her affidavit, Y-D- now asserts that the adoption of T-A- and K-A "was not a legal adoption that was registered with the government. These children are with their mother in Nigeria." Accordingly, Y-D-'s testimony to the Circuit Court of [redacted] that she and the Petitioner had adopted T-A- and K-A- was not truthful. For these reasons, we find her statements unreliable.

In her affidavit, T-M- contends that her marriage to the Petitioner "was genuine and real." She discusses how they met and asserts that they "loved each other." In addition, T-M- describes her relationship with the Petitioner, his jobs, and his involvement with her daughter, S-L-. She states that they "did not have a lot of money and did not have a wedding." T-M- further claims that the Petitioner lived with her at [redacted] Illinois ([redacted]) in a "Section

[10] As discussed earlier, a mailbox inside the Petitioner's apartment building in October 2000 listed the Petitioner's name along with that of Y-D- and F-D-. Furthermore, on A-A-'s birth certificate in [redacted] 2000, Y-D- listed her residence as [redacted].

8 housing unit." The appellate submission includes T-M-'s [redacted] lease for early September 1997 until August 1998[11], but it does not identify the Petitioner as a lessee or tenant to corroborate her claim that they lived together at that address. Furthermore, on the Form I-130 she filed in the Petitioner's behalf in October 1997[12], T-M- identified [redacted] Illinois (the address the Petitioner listed on his concurrently filed Form I-485) as her address, despite signing her [redacted] lease less than two months earlier (August 1997). It therefore appears she provided misleading information relating to her address when she signed the Form I-130 on September 23, 1997, and later filed that form in October. This information relating to the parties' separate residences also casts doubt on the assertion that the parties were living together at the inception of their marriage.

In response to the investigation's finding relating to the [redacted] building manager's statement that she had never seen the Petitioner, he provided a December 2015 letter from [redacted] stating: "[redacted] Apartments is a 99 unit property . . . . It is a multi-family property with over 120 residents. On-site management is diligent in managing the residents and the property, however because of the size of the property it is impossible to know all of the resident's guests that may come to visit." This letter refers to a "resident's *guests*" (emphasis added) rather than actual residents of the property. In addition, the "Lessor" identified on T-M-'s August 1997 lease agreement is "[redacted]" rather than [redacted]. Accordingly, the aforementioned letter from 2015 does not overcome the information the investigator received in 2000 directly from the [redacted] building manager.

T-M- further explains in her affidavit that she and the Petitioner "did not file a joint income tax" return or include the Petitioner on her lease because she "did not want to lose the Section 8 and I have heard that if one files joint income tax, then you get kicked out of Section 8. It was difficult to get on Section 8, and I did not want to risk losing it. I was also getting more taxes back that way." T-M- further contends that she "could not afford to pay higher rent and I was afraid that as a married couple, we will expect to pay more." Furthermore, T-M- indicates that the Petitioner paid the bills and she lists some purchases that she charged to their credit union account. She also mentions financial issues that caused problems in their relationship and notes that "he moved out in December 1998 and went to live at [redacted] Illinois." T-M- maintains that she visited the Petitioner there "almost every week, usually on weekends."

With regard to the May 6, 1999 immigration interview, T-M- states: "Before the interview with the immigration service I changed my ID which had an old address. I never thought about this earlier until I got the notice so I wanted to be fully compliant." While car insurance documentation in the record shows that T-M- drove an automobile in 1999, she presented an Illinois ID (issued one day earlier) instead of her driver's license at the interview. Further, she indicated to the interviewing officer that she was residing [redacted], Illinois, but the

[11] This lease is dated August 18, 1997, and signed by T-M-.

[12] She signed the Form I-130 on September 23, 1997 (four days after the parties married), certifying under penalty of perjury that the information she provided was "true and correct."

record indicates she was actually living at [redacted] Illinois. In addition to having provided misleading information to an immigration officer regarding her true address, T-M- asserts in her affidavit that she concealed her marriage with the Petitioner to receive a larger tax refund and to qualify for Section 8 housing. We find that the discrepancies and misleading statements noted above cast doubt on the credibility of T-M-'s statements.

In support of the instant petition, the Petitioner also provided an affidavit from T-M-'s former attorney, B-I-. The record includes a June 1998 letter to the Petitioner and T-M- from B-I- withdrawing his legal representation and stating that "issues have arisen that make it impossible and unethical for us to continue representation as your counsel of record in this matter." In his affidavit addressing this statement, B-I- asserts: "[T-A-] asked me to withdraw the I-130 as petitioner . . . but there was also an I-485, and both she and [the Petitioner] jointly approached me and met with me. I explained at the time, that this presented a conflict for me and the only alternative left to me was to decline further representation." B-I- further states that his withdrawal from their case "was not intended to convey any other impression, implicit or otherwise, neither was it a reflection on the intention, or validity or otherwise of the underlying marriage of [the Petitioner] and [T-M-]."

Additional affidavits from relatives, a neighbor, and a former coworker attest to the bona fides of the Petitioner's relationship with T-M-. The record also includes documentation relating to an automobile insurance policy, health insurance[13], a credit union account, a telephone calling plan, a cable television bill, and life insurance. In addition, the Petitioner provides his tax returns[14] and lease agreements for his [redacted] address.[15] Furthermore, he submits journal articles that discuss the adverse effects of childhood sexual abuse, including effects such as having interpersonal relationship difficulties.

The Petitioner, however, has not submitted sufficient corroborating evidence to demonstrate the bona fides of his relationship with T-M- and overcome the substantial and probative evidence that shows that his prior marriage to her was entered into primarily to evade immigration laws. In addition to the investigations of the Petitioner and T-M-'s separate residences, the interviews with landlords, the initial tax filings, and the initial leases listing only one party, the record includes A-A-'s birth certificate showing that the Petitioner fathered a child with Y-D- and was living with her while claiming that he was in a bona fide marriage with T-M-. We do not find the affidavits, the financial documentation relating to the Petitioner's involvement with T-M-, and his assertion that childhood sexual abuse he suffered has hindered his ability to maintain trusting relationships sufficient to establish by a preponderance of evidence that he did not marry for the purpose of evading immigration laws. The evidentiary weight of those documents does not overcome the

[13] The health insurance form is dated January 1997, eight months before the parties married.

[14] As discussed, the Petitioner initially filed his tax returns as single and head of household instead of married or married filing separately.

[15] As noted, the record includes the Petitioner's December 22, 1998 Apartment Lease for [redacted], Illinois beginning on January 1, 1999 and ending on December 31, 1999. The Petitioner is the only named lessee and signatory on this apartment lease. The lease agreements he submits on appeal (listing T-M-) are dated April 2000 and July 2000.

derogatory information in the record. This information detracts from the credibility of Petitioner and T-M- and their claim that he married her in good faith. Accordingly, approval of the instant Form I-140 petition is barred pursuant to section 204(c) of the Act.

IV. CONCLUSION

For the reasons discussed above, we find that the Petitioner is barred under section 204(c) of the Act and therefore he has not established he is eligible for a national interest waiver.

ORDER: The appeal is dismissed.

Cite as *Matter of M-A-A-*, ID# 2032076 (AAO Feb. 19, 2019)